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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EDWIN N. LAVERGNE  
(202) 637-9191

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TELEX 4938614

August 12, 1994

**BY HAND**

DOCKET FILE COPY ORIGINAL

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington, DC 20554

Re: Ex Parte PR Docket No. 93-61

Dear Mr. Caton:

On Friday, August 12, 1994, a copy of the attached letter was delivered to Richard B. Engelman, the Chairman and all of the Commissioners, as well as to the Commission's staff listed at the end of the letter.

Two copies of this letter are being submitted to the Secretary of the Commission pursuant to § 1.1206(a)(1) of the Commission's Rules.

Please contact the undersigned if you have any questions or require additional information concerning this matter.

Sincerely yours,



Edwin N. Lavergne

Attachments

ENL:cas

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**BY HAND**

Richard B. Engelman, Chief  
Technical Standards Branch  
Authorization and Evaluation Division  
Office of Engineering and Technology  
Federal Communications Commission  
Room 7122  
2025 M Street, N.W.  
Washington, D.C. 20554

**Re: PR Docket No. 93-61**

Dear Mr. Engelman:

This firm represents the Alarm Device Manufacturing Company ("ADEMCO"), a division of Pittway Corporation. On August 3, 1994, you contacted my partner, Henry Rivera, and explained that the Commission staff wanted feedback on an informal proposal designed to resolve the above-referenced proceeding. I understand that you wanted a response to the proposal, in writing, no later than August 12, 1994.

ADEMCO's understanding of the FCC's proposal is that the 902-928 MHz band would be divided as follows:

902-904	LMS non-multilateration systems
904-910	LMS multilateration systems
910-920	LMS non-multilateration systems
920-926	LMS multilateration systems
926-928	LMS non-multilateration systems
902-928	Part 15 devices

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ADEMCO further understands that, under the proposal, if multilateration LMS systems experience interference from Part 15 devices, Part 15 operators will be responsible for resolving the interference if the Part 15 devices are operating above the following threshold limits:

- A. The Part 15 device is using outdoor antennas which are more than 5 meters above ground;
- B. The Part 15 device is using equipment that does not meet the June, 1994, Section 15.247(b) requirements regarding antenna gain; or
- C. The Part 15 device is a field disturbance device operating pursuant to Section 15.245 of the Commission's Rules.

At the outset, ADEMCO believes that additional formal notice and comment is required in this proceeding, in accordance with the Administrative Procedure Act, if the Commission is to adopt rules similar to those suggested during your discussion with Henry Rivera. Moreover, it is extremely unusual for the Commission to solicit comment -- on nine days notice -- on a verbal proposal which raises substantial new technical and legal issues in an ongoing rulemaking proceeding.

Nonetheless, for the record, ADEMCO continues to believe that if both Part 15 and LMS are to develop to their full potential, they cannot co-exist in the 902-928 MHz band. The record in this proceeding is replete with evidence that Part 15 operations will cause harmful interference to many LMS systems. Because of secondary status accorded to Part 15 devices pursuant to Section 15.5 of the Commission's Rules, this interference has the potential to threaten the very existence of some Part 15 manufacturers and users.

With respect to your specific proposals, ADEMCO submits the following comments:

**Segmentation of the Band.** It would be a serious mistake for the Commission to believe that the interference problems associated with multilateration LMS systems can be resolved by confining the operation of such systems to discreet, but significant, portions of the band (i.e., 904-910 MHz and 920-926 MHz). Such a segmentation of the band does absolutely nothing to resolve interference problems from the millions of Part 15 devices which currently

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operate throughout the entire 902-928 MHz band. Moreover, the proposal would lead to the rapid deterioration of the band in the future because the potential for spectrum overcrowding in the band will, almost immediately, force Part 15 manufacturers to cease producing unlicensed products which operate in the band. These issues were previously addressed by ADEMCO in detail in formal comments filed with the Commission in this proceeding. See Comments of ADEMCO filed on March 15, 1994, at 5-11.

**Co-Equal Status.** Wideband LMS proponents have repeatedly stated in this proceeding that harmful interference from Part 15 devices will be minimal, at most. See e.g., Reply Comments of PacTel filed on July 29, 1993 at 45. Thus, there should be no concern about Part 15 operations causing harmful interference to multilateration LMS systems. In order to assure that (1) there are equal opportunities for all users of the band and, (2) the best and most efficient technology operates in the band, the Commission's LMS rules should state that the agency will not consider interference to LMS operations from Part 15 devices to constitute "harmful" interference under Section 15.5(b) of the Commission's Rules.

**Proposed Thresholds.** The thresholds suggested in the informal Commission proposal present several problems. First, establishing thresholds on Part 15 operations is tantamount to turning Part 15 into a licensed service. If a Part 15 operator is faced with location-sensitive limitations on its operations, then each location must be scrutinized as if it were a licensed location. This is particularly difficult because of the mobile nature of Part 15 devices, and the lack of any definitions in the Part 15 rules relating to mobile or fixed operations.

Moreover, the imposition of thresholds will likely cause insurmountable administrative, enforcement and legal burdens on the Commission. For example, how will the Commission identify which Part 15 signal, if there is only one, is actually causing alleged harmful interference to LMS operations when there are thousands of Part 15 devices, many of which are nomadic, operating in the area? Just because one device is operating "above the threshold" does not mean that it is that particular device causing the harmful interference. If the Commission merely assumes that the "above the threshold" device is causing the problem and orders the cessation of operations, then there appear to be serious questions of due process and arbitrary and capricious action raised by the Commission's action.

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There should be no above ground height restrictions (thresholds) on Part 15 outdoor antennas. In addition to the reasons stated above, this particular threshold is meaningless in a technical sense because it fails to consider terrain and surrounding natural and man-made structures. For example, an antenna which is only 5 meters above the ground at a height of 1,000 feet above average terrain would have a much greater potential for causing interference to LMS operations than an antenna which is 50 feet above ground at 0 feet above average terrain. Similarly, an "indoor" antenna located several stories above ground in a parking garage or inside a building next to a window could cause greater interference than an outdoor antenna 10 meters above ground.

Also, how would the Commission deal with a device, such as a cordless telephone being operated from an "outside" location, when the antenna is more than 5 meters above the ground and there is alleged interference to an LMS system? Would the Commission limit the operation of these devices to outside locations which are less than 5 meters above the ground? In the case of alleged harmful interference to an LMS system, how could the Commission allow the operation of some devices outside above 5 meters, and not the operation of others?

In addition, the Commission must consider that this meaningless outdoor antenna height above ground threshold could have a devastating impact on a significant portion of the Part 15 industry for no discernable reason. Many Part 15 operations depend on outdoor antennas transmitting at heights more than 5 meters above ground. To limit these operations could cause the demise of many Part 15 services which are currently being utilized with great public interest benefits.

In conclusion, ADEMCO continues to believe that the Commission should abandon its proposal to establish LMS. In this regard, the Commission must balance the tangible public benefits associated with existing Part 15 uses of the band against the intangible and speculative benefits that may result from the deployment of LMS technology.

If the Commission does move forward with LMS, it must, at a minimum, ensure that the licensees of this new service cannot invoke traditional preemptive rights under Section 15.5(b) of the Commission's Rules. Wideband LMS proponents should not be permitted to argue on the one hand, that there is no realistic potential for interference from Part 15 devices, and to expect on

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the other hand, that they can force the shutdown of offending Part 15 devices if actual interference later occurs. If this new service is authorized, any interference caused by Part 15 to LMS should not be considered "harmful" under Section 15.5(b).

Respectfully submitted,



Edwin N. Lavergne  
Counsel to the Alarm Device  
Manufacturing Company, a  
Division of Pittway Corp.

cc: Chairman Reed E. Hundt  
Commissioner James H. Quello  
Commissioner Andrew C. Barrett  
Commissioner Susan Ness  
Commissioner Rachelle Chong  
Ralph Haller  
Rosalynd K. Allen  
Thomas P. Stanley  
Bruce A. Franca  
Richard M. Smith  
Michael J. Marcus